

**ANNUAL REPORT  
OF THE  
PROBATE CODE STUDY COMMISSION**



**Indiana Legislative Services Agency  
200 W. Washington Street, Suite 301  
Indianapolis, Indiana 46204**

**November, 2004**

# INDIANA LEGISLATIVE COUNCIL

## 2004

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# PROBATE CODE STUDY COMMISSION

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### Staff

Anne Haley  
Attorney for the Commission

James Landers  
Fiscal Analyst for the Commission

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Commission can be accessed from the General Assembly Homepage at <http://www.state.in.us/legislative/>.

## **I. STATUTORY DIRECTIVE**

The Indiana General Assembly enacted legislation (IC 2-5-16-12) directing the Commission to do the following:

"...study and recommend to the General Assembly needed changes to the following:

- (1) The probate code (IC 29-1).
- (2) The trust code (IC 30-4).
- (3) Other statutes affecting the administration of a decedent's estate, guardianships, probate jurisdiction, trusts, or fiduciaries."

## **II. INTRODUCTION AND REASONS FOR STUDY**

In addition to the charge to the Commission found in IC 2-5-16-12, current Indiana law provides that the Legislative Council may refer any issue related to probate or trusts and fiduciaries to the Commission for study. However, the Legislative Council did not refer any issues to the Commission in 2004. The issues studied by the Commission in 2004 were referred to the Commission by the bar and the Indiana judiciary.

## **III. SUMMARY OF WORK PROGRAM**

The Commission met on October 28, 2004, at the State House in Indianapolis.

## **IV. SUMMARY OF TESTIMONY**

The Commission heard testimony concerning the following preliminary drafts (PDs):

- PD 3500 concerning the Uniform Transfers to Minors Act.
- PD 3503 concerning attorney in fact gift giving.
- PD 3505 concerning inheritance tax memorial deduction.
- PD 3507 concerning anatomical gifts, autopsy, and burial.
- PD 3508 concerning a will depository.
- PD 3509 concerning retirement plan powers.
- PD 3512 concerning construction of trusts.
- PD 3515 concerning insurance contracts.
- PD 3517 concerning the probate time limitation.
- PD 3518 concerning the share of the second or subsequent childless spouse.
- PD 3519 concerning amendment after incorporation.
- PD 3520 concerning guardianship transactions.
- PD 3521 concerning disclaimer and intestacy.
- PD 3524 concerning a sale benefitting a personal representative.

PD 3525 concerning a request for copy of estate inventory.  
PD 3526 concerning consent for disinterment.  
PD 3527, as amended, concerning a petition for probate.  
PD 3621 concerning the deadline for claiming an elective share.  
PD 3623 concerning the Uniform Trust Code.  
PD 3624 concerning a gift benefitting attorney in fact.  
PD 3625 concerning determination of trust heirs and interests.  
PD 3626 concerning a trustee's duty to determine trust beneficiaries.  
PD 3628 concerning reliance on a power of attorney or affidavit.  
PD 3633 concerning inheritance tax and stepchildren.  
PD 3635 concerning inheritance tax and adopted children.  
PD 3636 as amended, concerning inheritance tax and stepchildren.  
PD 3637 concerning an extension for filing inheritance tax return.  
PD 3643 concerning the construction of trusts.  
PD 3644 concerning a sale benefitting a personal representative.

## **V. COMMITTEE FINDINGS AND RECOMMENDATIONS**

The Commission recommended the following PDs to the General Assembly by a vote of 10-0:

PD 3500 concerning the Uniform Transfers to Minors Act.  
PD 3503 concerning attorney in fact gift giving.  
PD 3505 concerning inheritance tax memorial deduction.  
PD 3507, as amended, concerning anatomical gifts, autopsy, and burial.  
PD 3508 concerning a will depository.  
PD 3509 concerning retirement plan powers.  
PD 3515 concerning insurance contracts.  
PD 3517, as amended, concerning the probate time limitation.  
PD 3518, as amended, concerning the share of a subsequent childless spouse.  
PD 3519 concerning amendment after incorporation.  
PD 3520 concerning guardianship transactions.  
PD 3521 concerning disclaimer and intestacy.  
PD 3525 concerning a request for copy of estate inventory.  
PD 3526 concerning consent for disinterment.  
PD 3527, as amended, concerning a petition for probate.  
PD 3621 concerning the deadline for claiming an elective share.  
PD 3623, as amended, concerning the Uniform Trust Code.  
PD 3624 concerning a gift benefitting attorney in fact.  
PD 3625 concerning determination of trust heirs and interests.  
PD 3626 concerning a trustee's duty to determine trust beneficiaries.  
PD 3628 concerning reliance on a power of attorney or affidavit.  
PD 3635 concerning inheritance tax and adopted children.  
PD 3636, as amended, concerning inheritance tax and stepchildren.

PD 3637 concerning an extension for filing inheritance tax return.

PD 3643 concerning the construction of trusts.

PD 3644, as amended, concerning a sale benefitting a personal representative.

(PD 3512, PD 3524, and PD 3633 were not recommended by the Commission).

WITNESS LIST

Jim Cousins, Indiana Bankers Association

Jeff Kolb, Chairman, Probate, Trust, and Real Property Section of the Indiana State Bar Association

Bill Reynolds, Deputy Inheritance Tax Administrator, Indiana Department of Revenue